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PATENT APPLICATION



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Robert C. YOUNG et al.

Group Art Unit: 3742

Application No.: 10/607,131

Examiner: P. LEUNG

Filed: June 27, 2003

Docket No.: 115867

For: MICROWAVE OVEN COOKING PROCESS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement mailed September 27, 2004, Applicants respond as follows.

The Office Action asserts a Restriction Requirement between Group I (claims 1-31) and Group II (claim 32). In response, Applicants elect Group I, claims 1-31, with traverse. Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement.

The Restriction Requirement asserts that Group I is distinct from Group II, noting that the process of Group I does not require the product of Group II. Although Applicants agree that the inventions of Groups I and II may be independent or distinct as claimed, Applicants respectfully submit that the Restriction Requirement between Group I and Group II is improper, and should be withdrawn.

According to MPEP §803, there are two requirements that must be met before a proper Restriction Requirement may be made. These two requirements are: "The inventions must be independent . . . or distinct as claimed; and there must be a serious burden on the Examiner if

restriction is not required . . . " (emphasis added). Applicants respectfully submit that the Office Action has failed to establish the second requirement set forth in MPEP §803, that a serious burden exists on the Examiner if restriction is not required between the Groups of claims.

Applicants respectfully submit that a search for the subject matter of Group I would be commensurate with a search for the subject matter of Group II. Accordingly, search and examination of the subject matter of Group I would encompass a search for the subject matter of Group II, and any additional search would not impose a serious burden upon the Examiner.

It is therefore respectfully asserted that the search and examination of the entire application could be made without serious burden. MPEP §803 states that "If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." (Emphasis added). Because Applicants have elected Group I, directed to a cooking process, the further search and examination of Group II, directed to a food coating composition, would not place a serious burden upon the Examiner.

For at least these reasons, and in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office, it is respectfully requested that the Restriction Requirement be reconsidered and withdrawn.

Early and favorable consideration of the application are respectfully requested.

Should the Examiner have any questions regarding the application, or any suggestions to expedite prosecution, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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JAO:JSA

Date: October 27, 2004

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